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Los Angeles Regional Water Quality Control Board

Minutes of the December 20, 1999 Board Meeting

INTRODUCTION

1. The meeting was called to order by Chairman Nahai at 1:15 p.m.

Board Members Present

Susan Cloke, Jack Coe, Fran Diamond, Marilyn Lyon, Robert Miller, H. David Nahai, Tim Shaheen

Board Members Absent

None

Staff Present

Dennis Dickerson, Jorge Leon, Debbie Smith, David Bacharowski, Wendy Phillips, Arthur Heath, Wayne Chiou, Jonathan Bishop, Jack Price, Ronji Harris, Robyn Goodman, Raymond Jay

Others Present

I WILL INCLUDE ALL ATTENDEE NAMES
FOR THIS PORTION OF THE MINUTES.

Pledge of Allegiance.

1. Roll Call

All members were present.

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Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.



Chairman Nahai introduced and welcomed newly appointed Board Members Tim Shaheen and Robert Miller. The Chairman gave the oath to the new board members.

Order of Agenda.

The Executive Officer, Dennis Dickerson, recommended the following changes to the agenda:

- *Consider item 3 before item 2. Items 2 and 3 to be heard together but voted on separately.*
- 3. Consideration of NPDES Permit Requirements for discharge to the Dominguez Channel.
- 2. Consideration of a tentative Cease and Desist Order (CDO) directing ACTA to cease and desist conditions of exceedances of effluent limitations required in the NPDES permits for the groundwater dewatering operations at Greenleaf Boulevard and El Segundo Boulevard, Compton.

The Executive Assistant read the opening statement and the Chairman opened the public hearing and gave the oath to those testifying before the board in this matter.

Dennis Dickerson provided introductory remarks. Dennis Dasker gave a staff presentation outlining the issues related to both the permit and Cease and Desist Order. He reminded the Board that this matter had been continued from the December 9, 1999 regular board meeting for the purpose of resolving the legalities of the issuance of the general permits. He summarized all the public comments received and asked the Board to adopt both tentative orders including changes outlined in the submitted change sheet.

Jorge Leon, Legal Counsel, gave a presentation summarizing the legal issues raised at the December 9, 1999 board meeting and referred to his legal analysis memorandum dated December 15, 1999. He stated that his analysis concluded that staff was perfectly within their discretion to issue the general permits for Greenleaf and the El Segundo discharges.

James Hankla, CEO, Alameda Corridor Transportation Authority (ACTA), gave a presentation to the Board on behalf of Jeffrey Kellog, Chairman of ACTA. He stated that ACTA can discharge the groundwater for the development of the project in compliance with the requirements of the permit. He asked the Board to adopt the permit as recommended by staff.

The following other persons spoke on behalf of ACTA:

*Tim Buresh, Director of Construction and Engineering
Sharon Rubalcava, Legal Counsel*

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*Dr. Larry Russell, University of California
Dr. Alex Horne, University of California*

The following persons gave testimony to the Board during this hearing:

*Steve Fleischli, Santa Monica BayKeeper
Mitzy Taggart, Heal the Bay
David Beckman, NRDC
Richard Hollingsworth, Gateway Cities Partnership
Susan Zoske, Algalita Marine Research Foundation*

The Board paused for a 10-minute recess and reconvened the hearing.

Tim Buresh, ACTA, responded to the public speakers' comments and questions from the Board.

Dennis Dasker responded to questions from the Board and recommended the Board adopt the permit and include the following changes to the change sheet:

- 1. Include chronic toxicity within the effluent at the same schedule as acute toxicity;*
- 2. Modify the expiration of the order to December 31, 2002.*

- 3. Consideration of an Enforcement Action in the matter of ACTA.*

Hugh Marley gave a staff presentation presenting preliminary data on ACTA's current violations and asked the Board to provide direction to staff.

Wendy Phillips gave a staff presentation outlining staff's findings based on the avoided-cost analysis conducted.

Mr. Marley concluded by providing the Board with the options of 1) not taking action on this matter; 2) direct staff to issue an ACL; 3) direct staff to prepare an ACL for the Board to issue; and 4) refer the case to the Attorney General or District Attorney for further action.

Dennis Dickerson and staff answered questions of the Board, and Chairman Nahai closed the public hearing. After discussion of the Board, a motion was made to adopt the NPDES permit based on staff's recommendation and include the following changes:

- 1. modify the expiration date (page 2 of permit) from November 10, 2004 to December 31, 2002.*
- 2. Modify the change sheet (Footnotes 2 and 4) to include the words "by the Regional Water Quality Control Board" to be added between the words "to be opened" and the word "and".*

3. *Add chronic toxicity to the monitoring data.*

MOTION: By Mr. Nahai, seconded by Ms. Cloke, and approved on a voice vote.

A motion was made to adopt the tentative Cease and Desist Order as recommended by staff.

MOTION: By Mr. Nahai, seconded by Ms. Lyon, and approved on a voice vote.

Chairman Nahai asked for a board discussion regarding the enforcement issues raised by staff.

Jim Hankla, ACTA, commented on the enforcement issues and indicated that ACTA has made every effort to be in compliance at all times during their discharges. He urged the Board to not issue a substantial penalty based on ACTA's good faith and overall environmental benefits of the project.

Tim Buresh, ACTA, provided additional comments to the Board asking them to provide ACTA the direction the Board may take on the enforcement issues raised.

No action was taken on item 4, but the Board directed staff to come back to the Board with a recommendation, based on their findings. The Board asked staff to take into consideration ACTA's good faith, and set penalty limits accordingly.

6. Adjournment of Current Meeting.

Adjournment of Current Meeting. The meeting adjourned at 5:00 p.m. until the next regular board meeting on January 26, 2000.

Minutes adopted at the _____ Regular Board Meeting as submitted/amended.

Written and submitted by: _____.